

3 March 1965

MEMORANDUM FOR:

Legislative Counsel

SUBJECT:

Nationalization of Proprietary Employees and
HR 5324

The impact of HR 5324 (Reid Bill) is to do away with the residence requirements of Section 316(a) of the Immigration and Nationality Act. The exception, by express language of HR 5324, is available only for the person employed as specified in the bill. It does not apply to dependents. It does not abolish the requirement of admission for permanent residence prior to filing the petition for naturalization (Section 318).

Spouse.

Notwithstanding the U.S. citizenship of the husband or wife of a person provided for by HR 5324, the requirements of Sections 319 or 316(a) must be met for the spouse. Whereas under 316(a), one must be (1) residing continuously in the U.S. for five years prior to filing for naturalization,(2) physically present for half that time,(3) residing in the state of filing for six months, and (4) residing continuously in the U.S. from filing to naturalization, Section 319 provides lesser residences for spouses of U.S. citizens.

Section 319(a) requires (1) three years continuous residence prior to filing,(2) marriage with the citizen spouse during the three years preceding filing,(3) citizenship of spouse during the latter three years,(4) physical presence for half the time specified, and (5) six months' residence in the state of filing.

Section 319(b) provides relief from the residence requirements for spouses whose citizen spouse is abroad with a religious institution. HR 5324 amends Section 317 which deals with ministers and priests and abolishes the residence requirements of Section 316(a) for such persons. The Reid bill places employees of certain educational institutions in the same class as Section 317 religious personnel for this purpose. It should also provide the relief for spouses of Section 317 aliens as the existing law does in Section 319(b). As presently written, the Reid bill does not carry forward this parallel.

Minor Dependents.

Minor dependents of employees are in the same position as a spouse, i.e., they must meet the normal requirements for naturalization which apply to all aliens.

Citizenship by birth, of course, exists for any dependent born in the United States. If both parents are U.S. citizens, one of whom had a residence in the United States prior to the birth, a foreign-born child receives citizenship by birth. A third possibility is the foreign-born child of a U.S. citizen and U.S. national if the citizen parent has been physically present for the continuous period of one year prior to the birth.

A special class of citizens by birth abroad exists where one parent is an alien and the other a U.S. citizen who has been physically present in the United States for ten years, five of which were at a time he or she was over the age of fourteen. This type of citizenship must be perfected by the child pursuant to Section 301(b) and (c).

In the case of naturalization, it is automatic for a child of a U.S. citizen and an alien if, at the time, the alien parent is naturalized, the child is under sixteen (Section 320(a)). This is also true for any child under sixteen when both parents, or the sole parent with legal custody, is naturalized (Section 321). In both cases, the child must be admitted for permanent residence.

A parent may petition for naturalization of a child admitted for permanent residence if said parent is a citizen, and the child is otherwise qualified. In this case, no period of residence is required for the child (Section 322). The child, in this instance, may be of any age.

Conclusion.

The Reid bill should be amended to provide relief for the spouses of employees as now done for spouses of religious personnel in Section 319(b). While inclusion of minor dependents in the relief provision might be desirable, it is not as essential because of the automatic naturalization provisions for children under sixteen. For older children it would seem very desirable to avoid the filing of a petition and possible military service obligations in foreign countries. This could be done by appropriate amendment to Sections 317 and 319(b).

SIGNED



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Attachment:
HR 5324

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